

**International
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Legal Guides**



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1 Litigation – Preliminaries

1.1 What type of legal system does your jurisdiction have? Are there any rules that govern civil procedure in your jurisdiction?

The current Greek legal system is based on the Roman and German legal systems, and as such it relies upon enacted legislation and codes. The rules that govern civil procedure in Greece form part of the Greek Code of Civil Procedure, as amended and in force today.

1.2 How is the civil court system in your jurisdiction structured? What are the various levels of appeal and are there any specialist courts?

In Greece there are two levels of jurisdiction: (i) the First Instance Court, divided into (a) the Magistrates' Courts, (b) the Single-member Court of First Instance, and (c) the Three-member Court of First Instance; and (ii) the Appeal Court. Cassation Appeals against the judgments of the Appeal Court are heard before the Supreme Court of Greece, which acts as a cassation court.

The Magistrates' Courts handle cases of low monetary value, possession of movable or immovable assets and cases concerning agricultural disputes. The Single-member Court of First Instance and the Three-member Court of First Instance sit in jurisdictional areas that roughly coincide with the boundaries of the respective prefectures, and they act both as a First Instance Court as well as an Appeal Court, having jurisdiction to hear the appeals against the decisions of the Magistrates' Court. The cases amongst these Courts are in principle allocated in accordance with the nature of the dispute or the amount involved. Appeals from the Courts of First Instance are heard before the Appeal Court, which hear the case *de novo* both on the law and on the merits. The Supreme Court of Greece is competent to hear the petitions for cassation against the decisions of all the Appeal Courts of Greece, and normally hears cases in panels of five judges or in a full bench (plenary session). The Supreme Court of Greece confines its extraordinary review to questions of law, having no authority to reverse findings of fact.

1.3 What are the main stages in civil proceedings in your jurisdiction? What is their underlying timeframe (please include a brief description of any expedited trial procedures)?

The main stages in civil proceedings can be summarised as follows:

- Initiation of proceedings.

- Mandatory mediation session.
- Filing of the briefs and evidential material.
- Hearing of the case.
- Issuance and publication of the judgment.
- Service of judgment.
- Appeal.

The general timeframe required for a case to reach the stage of service of the judgment (at the First Instance Court level only) from its initiation usually exceeds 18 months, and in some exceptional cases may even take more than three years. On average, a commercial dispute will require some 24 months at first instance level. Of course, however, there are proceedings, such as labour law disputes, family law disputes or property leasing disputes, which are usually completed in a shorter period of time.

Upon the filing of the lawsuit at the Court's secretariat, the plaintiff(s) is bound to arrange for the service of the lawsuit to the defendant(s) within a period of 30 days (for domestic residents) or 60 days (for residents of other countries, or persons of unknown residence), commencing from the date of filing of the lawsuit.

A prerequisite for the vast majority of lawsuits is the participation of the parties in an initial mandatory mediation session, during which they are advised of their right to resolve the dispute through this procedure. The session takes place during the period from the filing of the lawsuit to the filing of the briefs.

If the parties decide not to mediate and resolve the dispute amicably at this stage, then they have to submit their briefs and their evidential material within a period of 120 days (applies to domestic residents) and 180 days (applies to foreign residents or persons of unknown residence). These deadlines commence on the day the action is filed. Thereafter, the litigant parties have the right to file an addendum to rebut the arguments raised by the opposing party through their briefs within 15 days from the expiration of the deadline for filing briefs. Together with this addendum, the parties may also submit additional evidential material, to the extent necessary for the rebuttal.

Upon the lapse of 15 days from the filing of the addendum, a hearing date for the case is set and the judge, or panel of judges, who will hear the case are elected. On average, this date of hearing is set some 12–16 months later (in commercial disputes). Given this timeframe, the parties also have the opportunity to raise any arguments that arose after the expiry of the deadlines for the filing of briefs and initial addendum, by filing a second addendum before the Court no later than 20 days before the scheduled hearing.

At the scheduled hearing, no advocacy takes place and no cross-examination of witnesses occurs. The case is heard in the mere procedural attendance of the parties or their respective attorneys. The judgment must be issued by the Court within an eight-month statutory deadline as of the hearing date. It is regretful, however, to note that this deadline is not always respected by the judges, with major delays occurring, mainly in the largest cities.

Upon issuance of the judgment, the defeated party has the right to file an appeal. The procedure before the Appeal Court differs slightly from the aforementioned. Upon the filing of an appeal, any party is entitled to ask the Court's secretariat for a hearing to be set by the Appeal Court, which is usually set within 12–16 months later. The parties submit their briefs and evidential material at the hearing, or the day before at the very latest. They also have the right to file an addendum to rebut the arguments raised by the opposing party in their briefs within three business days of the hearing. The judgment must be issued by the Court within an eight-month statutory deadline as of the hearing date. It is regretful, however, to note that this deadline is not always respected by the judges, with major delays occurring, mainly in the largest cities.

1.4 What is your jurisdiction's local judiciary's approach to exclusive jurisdiction clauses?

Greek law recognises the right of the litigant parties to agree on the exclusive jurisdiction of either a Greek or foreign Court as competent to hear their dispute(s). Such clauses are valid as far as they relate to the territorial jurisdiction of a Court (i.e. where two legal entities having their seat in different cities agree that the Courts of Athens shall have exclusive jurisdiction to hear the dispute) and provided that they are evidenced through an express and written agreement. In the event, however, that a defendant attends a trial and does not object on the issue of the territorial competence of the Court, then his attendance is considered a tacit agreement of exclusive jurisdiction.

1.5 What are the costs of civil court proceedings in your jurisdiction? Who bears these costs? Are there any rules on costs budgeting?

The main costs of civil Court proceedings are the Court fees and costs, and the lawyers' fees. Both are regulated by statute, although in practice lawyers are free to negotiate their fee with their clients, provided the agreed fee does not fall below the statutory minimum.

Naturally, a party to a litigation must take into account that it will also incur Court Bailiff fees, expert witness fees, translation fees, etc. where applicable.

The Court fees and costs that must be paid in civil proceedings are the following:

- (a) Stamp duties. These are affixed on all legal writs (lawsuit, briefs, applications, etc.) upon their filing and range between €2–€18 per writ.
- (b) Proceedings fees. The plaintiff must pay to the State a fee ("*dikastiko ensimo*"), the rate of which depends on the amount of the claim and ranges between 4%–8% of the amount sought, plus a fee equal to 32.4% of the State fee as stamp duty.

These fees are paid by the plaintiff in advance of the hearing but may be recovered if he is successful in his claim. Following the issuance of the judgment, and provided that the plaintiff is successful in his claim, the plaintiff might also have to pay the "Enforcement Cost" in order to be able to obtain the executory engrossment and proceed to acts of enforcement. This may be avoided if the losing party elects to pay the claim without the need for the plaintiff to issue an *exequatur*. For the issuance of the executory engrossment, the cost ranges between 2%–3%, depending on the nature of the claim awarded by the Court (accumulated interest is also taken into account).

In the event of an appeal, the party filing the appeal is required to pay in advance a Court fee of the amount of €75–€150. Moreover, in the event of a petition for cassation, the party filing the petition is required to pay in advance a Court fee of the amount of €250–€450.

As for lawyers' consultation and representation fees, these are regulated by law but only as to the statutory minimum. In practice, fees are freely negotiated between the client(s) and the lawyer, and each litigant party bears the costs of his lawyer.

As a general rule in Greek civil litigation, the defeated party is ordered by the Court to bear all fees and expenses relating to the proceedings, including the opponent's lawyers' fees, but only to the extent they do not exceed the statutory minimum (any fees paid by the parties to their lawyers in excess of the statutory minimum are not recoverable). The Court also has the right to set-off the expenses between the parties. Most commonly, the amount awarded to the winning party is equal to approx. 2% of the amount in dispute.

1.6 Are there any particular rules about funding litigation in your jurisdiction? Are claimants and defendants permitted to enter into contingency fee arrangements and conditional fee arrangements?

If a litigant party cannot undertake its own costs, then it can apply for legal aid. Law 3226/2004 on Legal Aid provides that any individual with a low income who is either an EU citizen, or domiciled/residing in the EU, can apply for legal aid. Legal aid in civil cases covers the appointment of a lawyer, where needed, and the exemption from Court expenses (e.g. stamp duty, etc.). It must be underlined, though, that legal aid may only be granted if the hearing of the case is not considered to be "apparently unjust or unfavourable". Such consideration is subject to the discretion of the Court hearing the specific application.

A contingency fee or success fee may be agreed between the client and his lawyer, provided that it is made in writing and a copy of the agreement is filed with the Bar Association.

1.7 Are there any constraints to assigning a claim or cause of action in your jurisdiction? Is it permissible for a non-party to litigation proceedings to finance those proceedings?

The assignment of a claim against a person to a third party is permitted under the provisions of the Greek Civil Code and is executed by the signing of an agreement between the parties, which is officially announced to the person or entity against whom the claim is retained. The third party becomes the beneficiary of the claim, and can resume litigation. Correspondingly, the defendant is allowed to assign the debt to a third party by agreement, to which the claimant must consent. However, this is not common practice, nor is the funding of legal costs, particularly due to their relatively limited amount.

1.8 Can a party obtain security for/a guarantee over its legal costs?

Upon application by the defendant, the Court is entitled to order the plaintiff to provide security for the legal costs if it is considered that there is an imminent risk that the plaintiff will not be able to reimburse them.

2 Before Commencing Proceedings

2.1 Is there any particular formality with which you must comply before you initiate proceedings?

Prior to the initiation of proceedings, the attorney is obliged to inform the claimant of the option of the dispute being brought to mediation. A brief statement to this end is prepared and submitted in the file of the claim.

In practice, it is also common for the claimant to address an extrajudicial statement (to be served through a Court Bailiff) to the defendant before initiating the proceedings in an attempt to avoid litigation.

2.2 What limitation periods apply to different classes of claim for the bringing of proceedings before your civil courts? How are they calculated? Are time limits treated as a substantive or procedural law issue?

The general principle is that there is a five-year limitation period. Article 250 of the Greek Civil Code makes an exhaustive reference to all kinds of claims that are statute-barred within five years (e.g. general civil law claims). All other claims not mentioned in article 250 of the Greek Civil Code are statute-barred after the lapse of 20 years. An exception to the above principles may apply when special statutory limitation periods are applicable.

The prescription period commences on the day that the claim was born and its judicial pursuance made possible, and it ends on the last day of the fifth or the 20th of the calendar year.

3 Commencing Proceedings

3.1 How are civil proceedings commenced (issued and served) in your jurisdiction? What various means of service are there? What is the deemed date of service? How is service effected outside your jurisdiction? Is there a preferred method of service of foreign proceedings in your jurisdiction?

Civil proceedings in Greece are commenced through (i) the filing of a writ (lawsuit, recourse or application), with the secretariat of the Court before which it is introduced, and (ii) service of the writ to the defendant(s). The secretariat, upon filing the lawsuit, issues the so-called “Certificate of Filing of Writ” which is affixed to the very last page of the writ, and as a single document the writ is served to the defendant(s) by the plaintiff(s). Service of writs in Greece is done through Court Bailiffs and can be instructed by any of the litigant parties. The Court Bailiff is then responsible to serve the writ by observing at all times the provisions regarding the lawful service of writs. Upon service of the writ, the Court Bailiff issues and delivers a “Certificate of Service” to the instructing lawyer, through which he certifies that the said writ was properly and lawfully served to the defendant(s). Service of writs to defendants having their residence abroad is made before the public prosecutor of the Court that has jurisdiction to hear the dispute. Said service is again materialised through a Court Bailiff who shall issue his respective Certificate of Service. The public prosecutor is thereafter obliged to send the writ that was served to him to the Minister of Foreign Affairs, who is responsible for sending it to the person(s) to whom it is addressed. The procedure thereafter varies with respect to the receiving country. Nonetheless, article 137 of the same code also recognises that service of the writ initiating civil proceedings can also be done in accordance with the laws governing the service of writs of the country of residence of the defendant(s).

Foreign proceedings can be served to Greek residents either in accordance with the EU Service Regulation 1393/2007, the provisions of the Hague Convention of 1965 or in any other way recognised by Greek law.

3.2 Are any pre-action interim remedies available in your jurisdiction? How do you apply for them? What are the main criteria for obtaining these?

In disputes involving an element of urgency, or in order to avert an imminent danger, the Court can order interim remedies, such as the granting of a guarantee, the inscription of a pre-notation of mortgage, the seizure of the assets of the defendant, injunctions (i.e. an order to abstain from performing a certain action), the application for the production of certain documents, etc. The application for interim measures is filed with the secretariat of the competent Court of First Instance.

Upon filing, a certain date of hearing is allocated and the writ is served to the defendant(s) both for their knowledge and in order to attend the trial and defend the petition. In theory, this procedure is considered “fast-track” in the sense that the hearing is scheduled in a relatively short period of time, it takes place without the presence of a Court secretary (therefore no minutes are being held) and the sole presiding judge issues his or her decision in a shorter period of time than required in ordinary proceedings. In practice, however, and particularly in Athens due to the great number of cases being addressed before the Athens First Instance Court, it may take a petitioner anything between 2–10 months to achieve the granting of the interim remedy (with the exception of summary judgments dealt with under question 6.5 below).

The main criterion in order to be successful in the granting of interim remedies is to demonstrate to the Court that there exists an element of urgency or a necessity to avert an imminent danger.

Interim measures are, of course, temporary by their nature. This means that, at the very latest 30 days following the granting of the remedy, the petitioner must file his “ordinary” lawsuit against the defendant. Failure to do so means that the lawsuit will be rejected by the Court as inadmissible.

3.3 What are the main elements of the claimant's pleadings?

As explained above, the civil proceedings are initiated through the filing with the Court and service to the defendant of the civil laws, and in the mandatory deadlines the filing of briefs takes place. According to article 118 of the Greek Code of Civil Procedure, the civil lawsuit must contain reference to (i) the Court or judge before which the writ shall be heard, (ii) the type of the writ (i.e. “lawsuit”, “petition”, “appeal” or “recourse”, etc.), (iii) the full names (or trade-names) of all the litigant parties and their addresses, (iv) the scope of the writ in a clear, non-ambiguous and concise manner, as well as (v) the date and signature of the plaintiff's representative attorney.

More specifically, the civil lawsuit must contain a clear exposition of the facts upon which the case rests in law and which justify the plaintiff's bringing an action against the defendant. Such facts must be presented in such a way that not only leaves no doubt as to the claim arising out of these facts, but also enables the defendant to mount a defence by rebuttal or objection, and the Court or judge, in case of doubt, to command the production of the necessary evidential material. Further, the lawsuit must contain a precise description of the claim with proper justification. If there is no clear exposition of the above material elements, then the lawsuit can be rejected for irremediable indeterminacy.

Further, through its briefs the plaintiff is expected to prove its allegations, develop its position and refer to the documentation and affidavits that it adduces to the Court and which form part of the exhibits of the case. The plaintiff has the burden of proving his own allegations and must convince the Court with its argumentation and exhibits that the relief sought must be adjudicated.

3.4 Can the pleadings be amended? If so, are there any restrictions?

Following the initiation of the proceedings, the plaintiff can no longer amend his claim or the historical basis of the lawsuit. Through the briefs, the plaintiff can only offer supplementary information or clarifications or correct his allegations, provided that the historical basis of the claim is not altered. By way of exception, the plaintiff is allowed, through the briefs, to limit or reduce the claim or to seek the adjudication of damages incidental to the main claim (e.g. interests).

3.5 Can the pleadings be withdrawn? If so, at what stage and are there any consequences?

The plaintiff is entitled to withdraw from the lawsuit either by making a statement to that effect at the hearing, or by making a reference to it in its briefs, or by serving an extrajudicial letter of withdrawal on the defendant. The withdrawal is not allowed during the period between the hearing and the issuance of the decision. The withdrawal suspends the proceedings and the action is deemed not to have been brought. Nevertheless, the plaintiff may be obliged to bear the legal costs of the defendant.

4 Defending a Claim

4.1 What are the main elements of a statement of defence? Can the defendant bring a counterclaim(s) or defence of set-off?

In defending a claim, the defendant files with the Court a brief through which he builds his defence and counter-argues the claim. The briefs of the defendant are addressed to the Court before which the proceedings are pending and must contain reference to the name (or trade-names) of all the litigant parties and their address, to the date of the hearing, docket number and deposition numbers of the lawsuit, thus identifying with certainty the specific case that they concern.

Further, through the briefs the defendant is expected not only to counter-argue the claim in its merits and historical background, but must also develop the procedural objections (e.g. lack of jurisdiction) that he expects the Court to examine and reply to through its judgment. Finally, through this brief the defendant refers to all evidential material by invoking with clarity which argument or point in law or substance is evidenced through each piece of evidence invoked in the briefs. The exhibits and any affidavit(s) obtained are filed along with the briefs. Equally, the defendant has a burden to prove his own allegations in defending the claim and seeking its rejection.

Indeed, through the briefs the defendant has the right to bring a counterclaim against the plaintiff and/or to assert that there are opposing claims that must be set-off.

4.2 What is the time limit within which the statement of defence has to be served?

In civil proceedings in Greece, the briefs need not be served to the adversary. The defendant (as well as the plaintiff) is obliged to file briefs with the Court secretariat on a certain date which varies according to the different proceedings (see question 1.3).

4.3 Is there a mechanism in your civil justice system whereby a defendant can pass on or share liability by bringing an action against a third party?

Yes, according to article 88 of the Greek Code of Civil Procedure, the plaintiff, the defendant and any other third party that has intervened in the proceedings has the right to invite to the proceedings the person(s) (or legal entities), from which they have the right to seek compensation in case they lose in the proceedings. This is done through the filing and service of an “invitation writ” to the third party.

By doing so, the third party becomes a litigant party to the proceedings and has the same rights as any other party. The Court hears the lawsuit and the invitation writ simultaneously and renders a single judgment addressing all issues raised by the plaintiff(s), the defendant(s) and the third party.

4.4 What happens if the defendant does not defend the claim?

If a defendant does not attend the trial and is not represented by a lawyer, the Court proceeds with the hearing and the defendant is judged *in absentia*. However, in rendering its judgment the Court must examine that the defendant was properly and formally summoned to attend the hearing by the plaintiff. This is achieved through the examination of the Certificate of Service issued by the Court Bailiff that we referred to above, and which the plaintiff must necessarily file with the Court.

4.5 Can the defendant dispute the court’s jurisdiction?

The rule is that the Court examines *ex officio* if it has jurisdiction to hear the dispute or not.

However, if the lawsuit has not been introduced before the competent Court, the defendant also has the right to file an objection, requesting from the Court the rejection of the lawsuit on the ground of lack of jurisdiction. This lack of jurisdiction is twofold: the Court may be incompetent “territorially”; or “in substance”. In case such an objection is filed, the Court will examine if it has the jurisdiction to hear the dispute and it will proceed with the examination of the merits of the case only if it is satisfied that the defendant’s dispute of its jurisdiction is not justified.

5 Joinder & Consolidation

5.1 Is there a mechanism in your civil justice system whereby a third party can be joined into ongoing proceedings in appropriate circumstances? If so, what are those circumstances?

Besides what was described in question 4.3 above, if a third party considers that a part or the entirety of the object of the dispute

should be adjudicated to it, then this third party has the right to file an intervention and seek the adjudication of the claim. This type of intervention is called “main intervention” and is exercised in the same way as a lawsuit, i.e. through a writ that is filled and served to all litigant parties. Alternatively, if in a pending litigation between two (or more) litigant parties a third party has a legal interest to see one of the litigant parties win the dispute, then this third party has the right to file an intervention in favour of that litigant party.

In this way, the third party is joined into the ongoing proceedings and has the same rights and obligations in the proceedings as the litigant parties.

5.2 Does your civil justice system allow for the consolidation of two sets of proceedings in appropriate circumstances? If so, what are those circumstances?

According to article 246 of the Greek Code of Civil Procedure, the Court will *ex officio* order or, following a request of one of the parties, allow the consolidation of one or more pending cases between the same or different litigant parties if these cases fall under the same proceedings and the Court considers that through the consolidation the proceedings are accelerated or facilitated, or the costs of the trial diminished. Another criterion often accepted and applied by the Courts in order to allow the consolidation of two sets of proceedings is the danger of issuance of conflicting judgments.

5.3 Do you have split trials/bifurcation of proceedings?

Through a judgment, the Court can order split trials or the bifurcation of proceedings in the same way and for the same reasons that it can order their consolidation. The criterion applied by the Court in doing so is to ensure the facilitation of the proceedings.

6 Duties & Powers of the Courts

6.1 Is there any particular case allocation system before the civil courts in your jurisdiction? How are cases allocated?

The Greek Code of Civil Procedure determines the allocation of the cases to the various Courts.

For instance, the Greek Code of Civil Procedure determines that in all civil matters where the dispute is monetary by nature, cases are allocated on the basis of the amount sought. At first instance level, all matters with a value not exceeding the amount of €20,000 belong to the jurisdiction of the Magistrates’ Court. Claims with a value between €20,001–€250,000 fall under the jurisdiction of the Single-member Court of First Instance, whilst all claims above that amount (i.e. €250,001) fall under the jurisdiction of the Three-member Court of First Instance. At the Appeal Court level, cases are not allocated on the basis of the value of the claim but on the basis of the jurisdiction of the First Instance Court. Hence, appeals against judgments of the Magistrates’ Court are introduced before the Court of First Instance, and appeals against the judgments of the Single-member Court of First Instance or of the Three-member Court of First Instance are introduced before the Single-member and Three-member Appeal Court of the same district, respectively.

Cases that do not have a monetary nature are allocated in accordance with the provisions of the Code. If the Code is silent as to the allocation of the case, then the Three-member Court of First Instance is competent.

Naturally, the Courts have an internal case allocation system and organisational chart that determines which chamber is competent to hear the case. The allocation is done in accordance with the nature of the dispute. For instance, there are several different chambers within each Court, such as: the labour law chamber; the car accident chamber; the law of obligations chamber; the commercial law chamber; and the leasing agreements chamber, etc.

6.2 Do the courts in your jurisdiction have any particular case management powers? What interim applications can the parties make? What are the cost consequences?

At the hearing, the judge (in a Single-member Court of First Instance) or the presiding judge (in a Three-member Court of First Instance): governs the proceedings; asks questions to the witnesses, litigant parties, experts, etc.; gives the right to speak to the other judges and attending lawyers; and pronounces the end of the trial when he considers that the case has been elaborated sufficiently in order to allow him to render a judgment.

The parties can make the interim applications mentioned above (see question 3.2) and seek interim remedies, such as the granting of a guarantee, the inscription of a pre-notation of mortgage, the seizure of the assets of the defendant, injunctions (i.e. an order to abstain from performing a certain action), the application for the production of certain documents, etc.

The interim applications during a trial do not have significant cost consequences.

6.3 In what circumstances (if any) do the civil courts in your jurisdiction allow hearings or trials to be conducted fully or partially remotely by telephone or video conferencing, and what protocols apply? For example, does the court – and/or may parties – record and/or live-stream the hearings and may transcriptions be taken? May participants attend hearings remotely when they are physically located outside of the jurisdiction? Are electronic or hard-copy bundles used for remote hearings?

No provision is made in the Greek legal framework for the possibility of hearings or trials to be conducted fully or partially remotely by telephone or video conferencing. Nevertheless, in certain proceedings the filing of pleadings and briefs by an online system accessed by lawyers and Court’s officers is allowed.

6.4 What sanctions are the courts in your jurisdiction empowered to impose on a party that disobeys the court’s orders or directions?

During the trial, if a party disobeys the Court’s orders or directions then the judge has the right to withdraw its right of speech or to even order its expulsion from the hearing. The Court may also, through its judgment, order the imposition of a certain pecuniary penalty for every breach of its judgment by the defeated party.

6.5 Do the courts in your jurisdiction have the power to strike out part of a statement of case or dismiss a case entirely? If so, at what stage and in what circumstances?

The Court does not have the right to strike out a statement from the parties’ writs. The Court may only order, at the request of a party or *ex officio*, the deletion from the pleadings of the

parties of grossly abusive or other inappropriate expressions. In examining the case on its merits, the Court has the right to reject partially the claim and award only that part that it considers appropriate in accordance with the rules of law and evidence.

6.6 Can the civil courts in your jurisdiction enter summary judgment?

Summary judgments form part of the safety measures procedure described above in question 3.2. A claimant can file with the Court an application for the issuance of a summary judgment. If the application is accepted, an order is issued with a temporary validity lasting until the hearing of the petition for safety measures, at which time it can be extended until the issuance of the judgment of the safety measures Court.

6.7 Do the courts in your jurisdiction have any powers to discontinue or stay the proceedings? If so, in what circumstances?

The Court will discontinue or stay the proceedings in those instances where the diagnosis of the dispute depends either entirely or partially on the existence or inexistence of a legal relationship or tortious or illegal behaviour that constitutes the object of another trial pending before a civil, administrative or criminal Court or authority. In such cases, the Court will either *ex officio* or, following a request of one of the parties, order the stay of the proceedings until such time the other trial is concluded irrevocably.

7 Disclosure

7.1 What are the basic rules of disclosure in civil proceedings in your jurisdiction? Is it possible to obtain disclosure pre-action? Are there any classes of documents that do not require disclosure? Are there any special rules concerning the disclosure of electronic documents or acceptable practices for conducting e-disclosure, such as predictive coding?

The litigant parties are compelled to file with the Court secretariat, along with their briefs, all evidential material invoked through their briefs (the “exhibits”). There is no obligation on the parties, under the Greek procedural system, to file with the Court all documents pertinent to the case. The parties are free to evaluate the evidential material and ascertain which documents they shall file with the Court in order to support and prove their argumentation. Following the filing of the briefs, each party is entitled to have access to the other party’s file in order to review the documentation disclosed and file comments thereon.

On the other hand, article 116 of the Greek Code of Civil Procedure establishes the principle of good faith and honesty in the proceedings, pursuant to which the litigant parties are expected to honour the rules of public morals and good faith, and avoid tactics that clearly lead to the delaying and protraction of the trial. Nonetheless, this article is seldom applied with respect to the disclosure of documents, and in practice the “rule” that has prevailed is that which says that each party only files the documents that are in its favour.

It should be noted that provision is made in certain proceedings for the submission of evidence by electronic means, although there are no specific rules on the disclosure or the coding. The documents are submitted by the attorney of record, via a secure online system, to the Court’s secretariat, following the filing of briefs.

7.2 What are the rules on privilege in civil proceedings in your jurisdiction?

The Greek Code of Civil Procedure provides that the following persons can be exempt from testifying as witnesses in a trial:

- priests for information obtained during a confession;
- persons who when an incident occurred lacked the mental capacity to understand what they witnessed or who do not have the capacity to explain what they witnessed;
- persons who at time of occurrence of the event that must be evidenced were in a state of mental or physical disorder that limited decisively their judgment and decision making or who are under such a capacity at the time of their examination;
- all persons who have a confidentiality obligation such as lawyers, priests, pharmacists and doctors with respect to information obtained in the course of their employment;
- public servants and military personnel with respect to confidential information; and
- relatives of the litigants.

7.3 What are the rules in your jurisdiction with respect to disclosure by third parties?

The third parties that have become a part of the proceedings have the same rights and obligations, as do all other litigants and those who have been extensively described above in our answer to question 7.1.

7.4 What is the court’s role in disclosure in civil proceedings in your jurisdiction?

The Court’s role is limited to examining the documents and evidential material adduced by the litigant parties, and evaluating these documents in order to form its opinion. If the Court considers that the material adduced by the parties is insufficient, then through its judgment it will order the production of certain material or an expert report, or request either of the parties to adduce a certain document.

7.5 Are there any restrictions on the use of documents obtained by disclosure in your jurisdiction?

No, there are no restrictions. Each party is entitled to use freely and comment on all documents disclosed by the opponent.

8 Evidence

8.1 What are the basic rules of evidence in your jurisdiction?

The basic rules of evidence as provided by articles 335–351 of the Greek Code of Civil Procedure are the following:

- (a) **Subject matter of proof:** Only the facts contested by one party and relevant to the outcome of the litigation make up the subject matter of proof (article 335). However, the Court takes freely into consideration matters of common knowledge, teachings of experience as well as facts practically known to everyone.
- (b) **Burden of proof:** Article 338 establishes a general statutory rule allocating the burden of proof. According to this rule, each party must prove the facts that are required to support its own allegations, claims or counterclaims.
- (c) **Evaluation of proof:** Article 340 provides that the judges evaluate all the evidence brought before them and further

render their decision. The judgment should explain in detail all reasons that led the Court to adopt a certain view.

8.2 What types of evidence are admissible, and which ones are not? What about expert evidence in particular?

The admissible types of evidence (as per the Greek Code of Civil Procedure) are the following:

- Confession (article 352).
- Direct or tangible evidence – autopsy (articles 355–367).
- Expert reports (article 368).
- Witness testimony (articles 393–414) and affidavits (articles 421–424).
- Examination of the litigant parties (articles 415–420).
- Documentary evidence.

Witness testimony, affidavits and documentary evidence are the most common and most relied upon types of evidence. Equally, expert reports, witnesses and opinions are allowed in civil litigation and often play a significant role. The only type of evidence that is not admissible is evidence obtained illegally.

8.3 Are there any particular rules regarding the calling of witnesses of fact, and the making of witness statements or depositions?

There are no particular rules regarding the calling of witnesses of fact to testify at the trial. There are rules only with respect to witnesses who are invited to provide an affidavit. Affidavits (up to five for each party) are only valid provided the other party has been summoned to attend their taking, which takes place either before a Notary Public or before the judge of the Magistrates' Court seated in the region of the witness' residence. The summons must be served through Court Bailiff at least two working days prior to the taking of the affidavit.

8.4 Are there any particular rules regarding instructing expert witnesses, preparing expert reports and giving expert evidence in court? Are there any particular rules regarding concurrent expert evidence? Does the expert owe his/her duties to the client or to the court?

It is permissible for the parties to produce expert reports or give expert evidence before the Court. When appointed by the parties, the experts will be guided by their own guidelines as to the matters to be examined, and by the rules of their field of expertise, to produce their conclusions.

The Court may itself, if the parties so request, appoint an expert to prepare on the matters raised in the lawsuit. In that event, the Court hearing the case will provide the experts with the necessary instructions as to an appropriate manner in which they are to perform their duties and ensure that the experts have access to the evidential material which is useful for the performance of the expert's report.

The Court freely assesses the experts' opinion and therefore has the discretion to disregard that opinion if the instructions given to the experts or the clarifications of the parties have not been followed and, on the other hand, it has the right, if it considers it appropriate, to order, either at the request of the parties or *ex officio*, a new expert report or its repetition or completion by the same or other experts.

Irrespective of whether the expert report was ordered by the Court or produced by the parties, the Court will assess it freely and may either adopt the report and rely on its findings or reject it.

9 Judgments & Orders

9.1 What different types of judgments and orders are the civil courts in your jurisdiction empowered to issue and in what circumstances?

The Civil Courts in Greece can issue the following types of judgments:

- A “final judgment” or an “interim judgment”. The “final judgment” is the judgment that concludes the proceedings and renders judgment, whilst the “interim judgment” or non-final judgment is the judgment through which the Court rules on matters incidental to the proceedings, such as the ordering of the appointment of an expert to provide an expert's opinion on a certain matter. Another type of non-final judgment is one that rules on other issues of the case without concluding the proceedings.
- A “final judgment” either following the lapse of the deadline of the defeated party to file an appeal or in case of appeal, following the issuance of the decision of the Appeal Court, becomes an “irrevocable judgment” and produces the *res judicata* effect.
- Further, if the judgment can no longer be overruled following a Cassation Appeal or following the issuance of a judgment by the Supreme Court of Greece, then it becomes an “unappealable judgment”.

Further, the judgments can also be characterised with respect to the nature of the relief sought. In this respect, they are divided into:

- Decisions for affirmative relief, issued in claims for specific performance, as well as for all kinds of monetary claims.
- Declaratory Decisions, through which the Court recognises and “declares” the existence or non-existence of a legal relationship between the parties.

9.2 Are the civil courts in your jurisdiction empowered to issue binding declarations as to (i) parties' contractual or other civil law rights or obligations, (ii) the proper interpretation of wording in contracts, statutes or other documents, (iii) the existence of facts, or (iv) a principle of law? If so, when may such relief be sought and what factors are relevant to whether such relief is granted? In particular, may such relief be granted where the party seeking the declaration has no subsisting cause of action, and/or no party has suffered loss, and/or there has been no breach of contract/duty?

It is permissible under Greek legislation to bring a lawsuit seeking a declaration of the establishment or lapse of a contractual right (but not a mere factual event or a mere statutory condition). In that event, the Court may rule on the existence of the parties' rights, on the proper interpretation of the wording of contracts or other documents and on the relevant matters. However, the lack of the subsisting cause of action, loss or breach of contract or duty is likely to result in the dismissal of the lawsuit if the plaintiff's legal interest is not justified.

9.3 What powers do your local courts have to make rulings on damages/interests/costs of the litigation?

Greek Courts have the power to award compensation for the damages suffered, up to the amount requested by the plaintiff

through the writ of the lawsuit and evidenced through the proceedings. The Greek Civil Court does not have the power to award anything that goes beyond the relief sought. This rule applies not only in relation to the main claim sought by the plaintiff (i.e. damages and/or loss of profits) but also in respect to incidental damages (such as interest) and legal costs. If the plaintiff fails to request the adjudication of these damages, the Civil Court is not empowered to adjudicate them *ex officio* even if the main claim is accepted in its entirety. On the other hand, if the plaintiff sought the adjudication of interests and legal costs in addition to his main claim through his lawsuit, then indeed the Court will award these, if the lawsuit is accepted.

9.4 How can a domestic/foreign judgment be recognised and enforced?

A judgment, whether domestic or foreign, can be enforced only if it is final and irrevocable (see above as to the definitions).

With respect to foreign judgments issued by a Court of an EU Member State, the Brussels Convention (EC 44/2001) applies. In all other cases, without prejudice to the provisions of multilateral and/or bilateral treaties and Conventions, a foreign judgment can be declared enforceable by a judgment of the Single-member Court of First Instance following a petition of the plaintiff. The conditions for this to happen are provided in article 905 par. 2 of the Greek Code of Civil Proceedings, and are the following:

- the judgment must be enforceable in the country of origin; and
- it must not be contrary to public morals.

The enforcement of the judgment commences through the service to the defeated party of the executory engrossment ("*ektelesto apografi*"). If the losing party fails to obey the executory engrossment, enforcement proceedings (seizure of assets, auction, etc.) may be initiated.

9.5 What are the rules of appeal against a judgment of a civil court of your jurisdiction?

In principle, all decisions of the Courts of First Instance are appealable by either the defeated party (if the lawsuit has been accepted/rejected in its entirety) or by both parties for the part not adjudicated (if the lawsuit has been accepted/rejected partially).

An appeal can only be filed once and within a deadline of 30 days (or 60 days if the appellant is resident abroad or is of unknown residence), starting from service of the judgment to the defeated party. In case none of the parties serve the judgment to its adversary, then the deadline of filing an appeal is two years, starting from the publication of the judgment. Failing to file an appeal within these deadlines renders the judgment "final and irrevocable".

Against the judgment of the Appeal Court, equally, the defeated party has the right to file a Cassation Appeal before the Supreme Court of Greece. The Supreme Court of Greece, acting as a *Cour de Cassation*, only examines the correct application of the legislation and legal norms to the facts of the case. The deadline for filing a Cassation Appeal is 30 days from service of the judgment under review to the adversary (or 60 days in cases where the litigant resides abroad or is of unknown residence). Similarly to appeals, if the judgment under review is not served by either of the parties the deadline to file a Cassation Appeal is two years, starting from the publication of the judgment.

The Greek Code of Civil Procedure also provides for several other means of appeal to which each party is entitled, depending on the nature of the dispute and the grounds of the judgment.

10 Settlement

10.1 Are there any formal mechanisms in your jurisdiction by which parties are encouraged to settle claims or which facilitate the settlement process?

Court Mediation provides the opportunity for the parties to reach a more efficient settlement of their disputes without resorting to Court proceedings. Recourse to Court Mediation is optional, so that any interested party may apply to the competent judge-mediator by submitting a written request. The procedure involves separate and joint hearings, as well as discussions of the parties and their lawyers with the mediating judge, who may address non-binding proposals for the resolution of the dispute to the parties. The Court of First Instance and the Appeal Court are granted the discretion to invite the parties to resort to Court Mediation in order to resolve their dispute and at the same time to postpone the hearing, until the termination of the proceedings.

11 Alternative Dispute Resolution

11.1 What methods of alternative dispute resolution are available and frequently used in your jurisdiction? Arbitration/Mediation/Expert Determination/Tribunals (or other specialist courts)/Ombudsman? (Please provide a brief overview of each available method.)

The vast majority of cases in Greece are resolved through recourse of the parties to litigation and/or through the direct negotiations that the parties may conduct at any stage of the case and prior to the issuance of the Court judgment.

A smaller fraction of disputes are resolved through arbitration and mediation. The recourse to arbitration can validly be agreed between two parties in an agreement, provided this is done in writing. The parties are free to select the applicable Arbitration Rules (e.g. ICC International Court of Arbitration Rules or the Rules of the Chartered Institute of Arbitrators), the applicable substantive law, the venue, the language of the arbitration and the number of arbitrators. Such agreements are recognised by the Greek legal order and the arbitration award rendered is enforceable in Greece. Alternatively, the parties are also free to select as their dispute resolution mechanism the application of the Arbitration Rules of the Greek Code of Civil Procedure. All disputes falling under the scope of the private law can be referred to arbitration through an agreement, with the exception of labour law disputes.

Further, Law 4640/2019 regarding mediation in civil and commercial disputes provides rules that regulate how the mediation procedure, performed by a certified mediator, is conducted. The mediation proceedings are determined by the mediator in consultation with the parties, depending on the nature of the dispute, considering the particular features of each dispute and the true interests of the particular parties involved.

Several other methods of dispute resolution are also recognised, such as conciliation, expert resolution, banking ombudsman, etc. Nonetheless, these methods are less frequently encountered in practice.

11.2 What are the laws or rules governing the different methods of alternative dispute resolution?

Civil litigation is governed and conducted in accordance with the provisions of the Greek Code of Civil Procedure. An agreement of the parties to resolve their dispute by recourse to the Greek Arbitration of the Greek Code of Civil Procedure would naturally

be governed by the applicable provisions of the Code (articles 867–903), as well as the recently adopted Law 5016/2023 introducing the current UNICITRAL rules to Greek proceedings. Mediation is governed by Law 4640/2019, whilst negotiations and conciliations are not governed by statutory provisions. It is up to the parties to agree on the method and resolution of their dispute and its enforcement.

11.3 Are there any areas of law in your jurisdiction that cannot use Arbitration/Mediation/Expert Determination/Tribunals/Ombudsman as a means of alternative dispute resolution?

Yes, there are certain types of disputes that cannot be resolved through recourse to Arbitration. According to article 867 of the Greek Code of Civil Procedure, all private disputes may be submitted to arbitration, except for those the subject matter of which concerns private legal rights that cannot be freely disposed by the parties. However, labour disputes are expressly excluded.

11.4 Can local courts provide any assistance to parties that wish to invoke the available methods of alternative dispute resolution? For example, will a court – pre or post the constitution of an arbitral tribunal – issue interim or provisional measures of protection (i.e. holding orders pending the final outcome) in support of arbitration proceedings, force parties to arbitrate when they have so agreed, or order parties to mediate or seek expert determination? Is there anything that is particular to your jurisdiction in this context?

The Court before which a civil dispute is pending which is eligible for the mediation procedure, by taking into account, in its absolute discretion, all the circumstances of the dispute in question, may, at any stage of the proceedings, invite the parties to resort to the mediation procedure in order to resolve the dispute. Moreover, in the event that the parties have already agreed to arbitrate through a relevant contractual provision, the Court has no jurisdiction to issue a decision over the dispute and bares the obligation to reject the lawsuit and order the parties to bring the dispute before the competent arbitrator.

Further, the submission of a civil dispute to the mediation procedure does not preclude the adoption of an interim measure to safeguard the rights which are the subject of the mediation (see question 3.2).

11.5 How binding are the available methods of alternative dispute resolution in nature? For example, are there any rights of appeal from arbitration awards and expert determination decisions, are there any sanctions for refusing to mediate, and do settlement agreements reached at mediation need to be sanctioned by the court? Is there anything that is particular to your jurisdiction in this context?

An arbitral ruling has the same effect as a Court decision and is binding once it is signed by the arbitrators. It is provided in Greek legislation that the arbitral decision is not subject to appeal. However, the parties may by mutual agreement provide for an appeal against the arbitral decision, appointing also the judges who will hear the appeal and the procedure. Moreover, the arbitral decision may be annulled by the Court of First Instance at the request of the parties if: the agreement to resort to arbitration is null and void; the decision was issued after the relevant agreement of the parties has ceased to be in force; the person(s) who considered the decision breached terms of the agreement or provisions of law; the decision is contrary to legal provisions or good behaviour; or it is incomprehensible or has contradictory justifications. The appeal must be filed within three months of the service of the decision.

Also, the mediation minutes prepared by the mediator and signed by the parties are binding, upon the filing before the Court's secretariat, and cannot be appealed.

As a general observation, there is no significant consequence or sanction to the party that fails to attend arbitration or mediation. Specifically, for mediation under article 4649/2019, in the event that either party fails to attend the mandatory initial session, the Court hearing the case may impose a fine of €100–€500.

11.6 What are the major alternative dispute resolution institutions in your jurisdiction?

The ICC International Chamber of Commerce has a presence in Athens through the local national committee. At the same time, a mediation centre was established in 2006 in Athens called the Hellenic Centre of Mediation and Arbitration, and also the Mediation General Committee was established by Law 4640/2019. Additionally, the Athens Mediation and Arbitration Organization (EODID) was also founded in 2016.



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